

**BERGENFIELD ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
TELECONFERENCE VIA ZOOM
AUGUST 3, 2020**

Chairman Shimmy Stein called the meeting to order at 8:00 P.M.

OPEN PUBLIC MEETING STATEMENT

In compliances with the Open Public Meetings Act, the notice requirements have been satisfied. Meeting dates are confirmed at the Annual Meeting. Notice of this meeting was provided to the Record, Star Ledger, and Cablevision, posted on two municipal public notice bulletin boards and published on the borough website. Notice of this meeting via the July 24, 2020 Sunshine Notice has been sent to the Record, Star Ledger, and Cablevision, posted on two municipal bulletin boards and the Borough website.

Any board member having a conflict of interest involving any matter to come before the board this evening is reminded they must recuse himself/herself from participating in any discussion on this matter.

PLEDGE OF ALLEGIANCE

Led by John Smith.

ROLL CALL

Present: Shimmy Stein, Richard Morf, Sara Berger, John Smith, Charles Steinel, Joel Nunez, Amnon Wenger, Marc Friedman, and Joel Berkowitz

Absent:

Also Present: Ronald Mondello, Esq., Zoning Board Attorney, Frank Rotonda, Zoning Board Engineer, Hilda Tavitian, Board Clerk, Councilman Rafael Marte, and Michael Knowles, Planning Board Liaison

APPROVE MINUTES OF PREVIOUS MEETING – July 6, 2020

Motion By: John Smith

Second By: Amnon Wenger

All ayes. None opposed.

CORRESPONDENCE

Board attorney Ron Mondello stated Hilda, board clerk, had sent him and the chairman an email for a request from Mr. Gallo not to memorialize any of the resolutions this evening. Mr. Mondello explained that although it is up to the board, in order to establish and maintain comity, the board should follow those instructions given to him by the governing body. Mr. Smith has made a number of complaints against the board, some members, the board engineer, and board attorney. The governing body has put together a committee to explore informally some of the allegations made. The borough administrator had requested the resolutions not be passed until the committee meets with board members.

Borough administrator Corey Gallo stated the complaints made were not just by Mr. Smith. There were several members that attended board meetings that had questions regarding matters taken by the board. As a result, the council had instructed Mr. Gallo to formulate a group, including Mayor Amatorio, Council President Marte, and Councilman Lodato. They want to have a discussion with Shimmy Stein, the board attorney, vice chairman and secretary of the Zoning Board along with John Schettino present to review what took place with regards to the two applications that were in question at the last meeting. Mr. Gallo stated they were not able to get a date and time to get everyone together prior to tonight's meeting. Hopefully, there will be some understanding and explanations after the review. The board will do whatever they choose to do after the review.

Chairman Stein stated that one of the items that was taken off the agenda was not an application.

Mr. Gallo stated this is not the time and place to discuss the matter and that is why the council requested to have a meeting. It's just an inquiry, not anything formal.

Mr. Mondello stated he agrees with Mr. Gallo that this is not the time and place. The request came from the governing body not to approve or memorialize the resolutions. Mr. Mondello advised the board to not memorialize the resolutions and wait for another time. There were two other individuals that had complaints, Mary Sullivan and Barry Doll.

VERBAL COMMUNICATION

Comments by members of audience on matters not on evening's agenda

Mr. Mondello stated those individuals that may have been present for the memorialization of either an extension or their application as not going to occur this evening.

Mr. Friedman stated there are three resolutions listed on the agenda. There are two that have issues. There has been no question raised with respect to Sytner and 88 Rector Court. Mr. Friedman stated that ought to be considered.

Mr. Mondello confirmed that Mr. Friedman was correct in stating there were no issues with 88 Rector Ct. Resolutions do not need to be memorialized until 45 days. Mr. Mondello stated he had decided to keep it with the other two resolutions and be decided altogether in September.

OLD BUSINESS

NEW BUSINESS

1. Gisnelly Ordonez
21 Carnation Street
Build a new deck.

Robin Ordonez, applicant residing at 21 Carnation Street, stated they want to build a new deck that has been their dream for 13 years. He is a contractor and has the means to do it now.

Mr. Stein stated they have several non-conforming existing conditions. The only variance they are seeking is improved lot coverage from 51% to 53%.

Board engineer Frank Rotonda stated the zoning officer sent this matter to the board because the allowable lot coverage exceeds what is allowed. They are requesting 53% lot coverage whereas 40% is permitted. The application is limited to the installation of a deck to rear of home. There is no engineering concern. There are pre-existing variances.

Mr. Friedman stated the 51.88% comes from an existing concrete patio.

Mr. Stein inquired about what is happening underneath the deck. Mr. Stein inquired if water can penetrate into the ground and be pervious. Mr. Stein stated they need to discuss a seepage system and correct a possible water situation.

Mr. Ordonez stated it is going to be an empty space. They will be putting some gravel. No, no water will be going there.

Mr. Rotonda stated the board can require the installation of a seepage pit to mitigate an increase in impervious coverage.

Chris Blake, licensed architect, 24 New Bridge Rd, Bergenfield, NJ, stated the deck is replacing the concrete patio. There will be gravel underneath the deck. It might be better to put some kind of barrier and would be beneficial for the property to allow some of the water to seep through so the deck won't be as impervious as the concrete patio and it might alleviate putting in a seepage pit. It is up to Mr. Ordonez as to what his preference is. Gravel is better than grass. The gravel is more cleaner and maintenance free.

Mr. Mondello inquired why not just have grass.

Mr. Stein stated it is still 13% over what's allowed. Mr. Stein inquired why not put in a seepage pit with the gravel. A seepage pit is not a big ask.

Mr. Ordonez stated they can do that.

Mr. Nunez stated in the elevation section, the stair landing detail shows 6-8 stairs but then it shows only two steps on the plan. Mr. Nunez inquired which one is right. It looks like it's coming from a second floor with a landing. Mr. Nunez inquired what the distance is between the garage and the last step of the staircase. Mr. Nunez inquired if there is enough space for someone to walk by. Mr. Nunez inquired about the risers and the step being very high. It's fine if it's just two steps.

Mr. Ordonez stated if they make the deck 13x18, there will be at least 7.5 ft to the garage wall. The steps will be facing away from the garage.

Mr. Blake stated the plan indicates about 5 ft. It will be more than 4 ft. if there is a riser. Mr. Blake stated they are following the building code. The maximum allowed is 8 ¼ and they are maintaining the maximum. There are 3-4 risers on the plan.

Mr. Steinel inquired if it's possible moving the stairs from the center of the deck to the left side (west end) so it's away from the garage and will not be a problem. Mr. Steinel stated since the end of the stairs and the separation from there to the garage is relatively narrow, there will be no interference by

moving the steps to the left. It will give you more space between the garage and the stairs. It should be between the center line and the left side.

Brian Ordonez stated that is a good idea and can be arranged.

Mr. Stein stated should the application be approved, the stairs will be moved as Mr. Steinel suggested.

Mr. Smith inquired if the deck size can be shrunk by a foot to help with the lot coverage. Everything else he is agreeing to is going to help him. Mr. Smith inquired if the seepage pit is going to be enough. Mr. Smith stated he is trying to help the applicant so there is no problem with the lot coverage. Mr. Smith requested clarification on ordinance 186-83 regarding non-conforming uses. Mr. Smith read the ordinance into the record.

Mr. Rotonda stated the idea is to look at what's existing versus what's proposed and for a reduction. The property already has lot coverage that exceeds the allowable. It will mitigate what is being requested. Mr. Rotonda stated they should separate the lot coverage from the run off. Mr. Rotonda stated when talking about mitigating the run off, it's to offset the variance relief they are looking for. The seepage pit and the gravel under the deck should make less run off, making it a better condition.

Mr. Mondello stated the purpose of the board's existence is to look at an application and see whether or not relief can be granted. It is up to the board members to decide if the applicant has provided sufficient prove that the application should be granted.

Residents within 200 feet:

Elizabeth Santos, 43 Carnation Street, stated they should have their dream deck.

Residents Beyond 200 feet:

No one came forward.

Approve application with stairs to be moved and with compliance with the engineer's requirements

Motion By: Amnon Wenger

Second By: John Smith

All ayes. None opposed.

2. Janeill Iloabanafor
311 S. Prospect Avenue
Addition/renovation at rear of two-family residence

Chris Blake, licensed architect, 24 New Bridge Rd, Bergenfield, NJ, stated they are proposing to build an addition to a two-story building in the rear. There will be renovations to the existing house. They are seeking a side yard setback variance of 5.7 ft. where 15 ft. is required for a two-family house. They are proposing 48.93% impervious coverage variance where 35% is allowed. Mr. Blake stated they are willing to take out the swimming pool which will decrease by 177 sq. ft. in impervious coverage. They are actually asking for 46.10% for impervious coverage. The side yard setback of 5.7 ft. is a result of the property not being parallel and align with the house. The unbalanced property line will impale 5.7 ft. side yard setback. Mr. Blake explained they are maintaining the rear yard setback and the front yard setback. The other side yard setback is an existing non-conforming of 5.04 ft. with a one-story garage. They are maintaining the building coverage with less than 30%, at 25%, and the overall building height.

Mr. Blake stated the impervious coverage has been reduced from the original application and they are asking for 46.10%.

Janeill Iloabanafor, applicant/resident of 311 S. Prospect Avenue, stated her 21 year old son was hit by a car on March 27, 2019 and has been in the hospital until today. He can't be discharged from the hospital until the home is safe for him. He wears a diaper, has a feeding tube in his stomach, and a trach in his neck. He requires a lot of equipment and space. He has suffered a traumatic brain injury.

Mr. Blake stated there will be a bedroom with a bathroom added in the rear and a family room in the basement will be for his needs. They are proposing an elevator for the family to be able to get up and down the floors. It is a difficult situation with the hardship of the property not being straight and the property line not being align.

Mr. Rotonda stated the town's zoning officer, Mr. Ravenda, issued a report on June 26, 2020. He has listed five deviations, which all of them are not variances. Some of them are considered waivers. Mr. Rotonda stated there are two existing driveways, where only one is allowed. Mr. Rotonda inquired if that is something the board wants to consider. Mr. Rotonda stated there are two existing driveways, not two seepage pits. Mr. Rotonda stated Mr. Ravenda had wanted a seepage pit to be put in.

Mr. Steinel stated that the zoning officer, in his report, states there are two existing seepage pits and inquired if there actually are two seepage pits. Mr. Steinel stated he has no issues with the side yard variance. Mr. Steinel stated he is fine with the driveways being pre-existing as long as they are not being renovated.

Mr. Berkowitz inquired if the existing air conditioner is going to be moved and if it will be blocking any kind of access. Mr. Berkowitz inquired if the tree at the back of the property will remain. Mr. Berkowitz inquired if there is a way for egress from the basement if the person is in a wheelchair. Mr. Berkowitz stated it's listed as a recreation area. It would be good to have an alternative way to get out if there is an emergency in the recreation area. It's unsafe to park on Prospect Avenue.

Mr. Blake stated the existing air conditioner will remain there and won't be moved closer to the neighbor. Mr. Blake stated the footprint of the property is not encroaching on the tree but if it is damaged it will probably be removed. Mr. Blake stated there is no need for egress in the basement by code since its purpose is not for sleeping. Mr. Blake stated they will take that into consideration.

Mr. Nunez inquired if there will be any ramps in the exterior to come in. There are a couple of steps and if a ramp will be needed. Mr. Nunez inquired if there will be any space on the sides for a person to walk by safely and for the fire department to reach all the way to the back without any issues if there was an emergency.

Mr. Blake stated the addition is in the back and is not going to make matters worse than what it is already, maybe 6-8 inches less. They are planning on maintaining the conditions there now. Mr. Blake stated they are hopeful the access on the right hand side for the addition will work for the handicap wheelchair. Mr. Blake stated the maintenance and issue of the grass and weeds defeats the purpose of the basketball idea. It's hard to make the pavers flat and level. The applicant has five boys and the basketball court is something they use all the time. There is a paved area in the back that they will be moving. Mr. Blake stated they will take it into consideration and work with the engineer to take care of the seepage pit to alleviate any problems there may be.

Mr. Morf stated pavers can be used for the basketball court to help reduce some of the improved lot coverage. Mr. Morf stated the two existing driveways are asphalt and the basketball court is asphalt. There are basketball courts with pavers. The driveways could be pavers.

Mr. Smith stated he had a problem with the two driveways and the two curb cuts. There shouldn't be a parking problem when there is a garage. Mr. Smith stated doing away with one of the driveways would help with the lot coverage. Mr. Smith stated wanted to confirm that the applicant does not want to do away with either driveway. Mr. Smith stated widening the driveway on the left side with the garage would resolve any problems.

Mr. Blake stated the situation of the client and the family doesn't work well. The driveway on the right hand side provides ease of access with the family situation. The driveway on the left hand side works better with the garage being separated. It works based on the circumstances. They are existing conditions and are not suggesting to move them. Mr. Blake stated it is only going to be access from the rear. Mr. Blake stated having the two curb cuts does make it easier.

Mr. Friedman inquired if there will a ramp leading up to or down from the front steps. Mr. Friedman inquired if it will be easier to transport the son with the two curb cuts. Mr. Friedman stated this is a very special circumstance which should be taken into account with respect to permitting the two driveways and where they are located.

Comments and questions from residents within 200 feet:

No one came forward

Comments and questions from residents beyond 200 feet:

Barry Doll, resident, stated he understands and agrees with the reasons for the driveway. However, if and when the property is sold, will those driveways still be permitted to the new owner or should there be something placed that says they will not be transferable to a new owner. Mr. Doll stated that this is a special situation the board is inclined to approve. However, should they move, this no longer applies. Mr. Doll inquired why should there be a violation in the borough's regulations for another owner.

Mr. Stein stated the zoning board is not able to do that.

Mr. Rotonda stated the approval runs with the land. The transfer of the ownership does not belong with the zoning board.

Mr. Mondello stated Mr. Doll is indicating he would like the applicant to voluntarily place in the deed that if the house was every sold, the two driveways would have to merge or one of them would have to be eliminated. Mr. Mondello stated the driveways are pre-existing.

Mr. Blake stated it's an existing condition. It's not a part of their project and they should not be responsible for that. Mr. Blake stated the second driveway was there before the client purchased the property.

Mary Sullivan, resident, inquired if there was a variance installation and permit sought for the second driveway.

Approve application with seepage pit and recommendations made by Mr. Rotonda

Motion By: Amnon Wenger

Second By: Sara Berger

4 ayes. 3 Nays.

Mr. Steinel inquired if there is a way to take this meeting as is and go into a closed session for the purpose of finding out the story of who is making complaints about him and every other board member. It needs to be discussed with everyone, not just with some of the board members.

Mr. Mondello stated he doesn't believe it would be a reason to go into closes session. It would have to be in open. Mr. Mondello stated he will forward and circulate to all zoning board members the evidence Mr. Smith had submitted after the Zoom meeting concludes. Mr. Mondello stated it consists of a statement Mr. Smith read to the Mayor and council and some other things that are less significant. Mr. Rondello stated he will crop the audio portion from the Mayor and council meeting and will forward that to the board members, as well.

MOTION TO ADJOURN MEETING

Motion By: Charles Steinel

Second By: Shimmy Stein

All ayes. None opposed.

Meeting was adjourned at 9:17 pm.

Respectfully Submitted,



Hilda Tavitian, Zoning Board Clerk